



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

**ARNOLD & PORTER LLP  
ATTN: IP DOCKETING DEPT.  
555 TWELFTH STREET, N.W.  
WASHINGTON DC 20004-1206**

In re Application of :  
Nayar et al. :  
Application No. 10/578,692 : **DECISION ON PETITION**  
Filed: August 26, 2006 :  
Attorney Docket No. ARR-0037-1 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 1, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 30, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on January 31, 2010. A Notice of Abandonment was mailed February 17, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (1) and (3).

With regards to item (1), as a response to the Office action, petitioner states that a continuation application was submitted. However, the Office computer database records discloses the filing of two continuation applications on or around the time of filing of the instant petition to revive. **Accordingly, petitioner must state the application number of the continuation application in order that a proper decision on the merits of this petition may be given.**

With regards to item (3), petitioner has failed to sign the petition. The statement required in item (3) has not been signed by petitioner. A grantable petition pursuant to 37 CFR 1.137(b) must include the required statement signed by all of the applicants for patent, an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71, or a patent attorney or patent agent registered to practice before the office. Further, page two of the submitted petition has not been properly completed as well as unsigned.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$555.00, three month extension of time fee submitted on June 1, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Any renewed petition may be addressed as follows:

By Mail:                    Mail Stop PETITION  
                                 Commissioner for Patents  
                                 P. O. Box 1450  
                                 Alexandria, VA 22313-1450

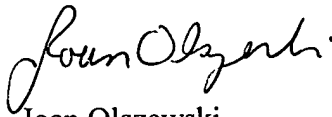
By hand:                    U. S. Patent and Trademark Office  
                                 Customer Service Window, Mail Stop Petitions  
                                 Randolph Building  
                                 401 Dulany Street  
                                 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.



Joan Olszewski  
Petitions Examiner  
Office of Petitions